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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,940	08/27/2003	Philippe LeBras	D-7874	5932

7590

11/23/2005

Law Department  
MeadWestvaco Corporation  
4850D North Church Lane  
Smyrna, GA 30080

EXAMINER
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PICKETT, JOHN G

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/648,940

Applicant(s)

LEBRAS, PHILIPPE

Examiner

Gregory Pickett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/20/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Great Britain on 3 February 2001 (see the executed Declaration of 22 November 2004). It is noted, however, that applicant has not filed a certified copy of the 0105223.2 application as required by 35 U.S.C. 119(b). Further, a claim for priority under 35 U.S.C. 119(a)-(d) cannot be based on said application, since application PCT/US02/08007 (filed 4 March 2002) was filed more than twelve months thereafter.

The examiner suspects that the executed Declaration of 22 November 2004 contained a typographical error and that the actual filing date of the 0105223.2 application was 2 March 2001. However, without a copy of the application, this suspicion cannot be verified. The provision of a certified copy of the 0105223.2 application, along with a corrected declaration, would appear to remedy the problem.

Accordingly, until priority has been perfected, the effective filing date of the instant application is **4 March 2002**.

### *Claim Objections*

2. Claims 8 and 10 are objected to because of the following minor informalities: both claims recite, "The package as claimed in any of claim [X]..." Deletion of the term "any of" would appear to remedy the problem. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-3, 7-13, 15-20, 22-29, and 31-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Chaussadas (US 4,880,115).

Claims 1, 16, and 17: Chaussadas discloses a package with a wrap-around carton **10** and a plurality of articles **C1-C6** arranged with a recess between adjacent articles (the articles are cylindrical with essentially linear contact, and the curved space between the articles leading up to, and away from, the linear contact is considered a recess). The carton comprising a top wall **16**, sidewall **18**, first and second base wall panels **12 & 20**, and beam structures **S1 & S2**; and the walls and beam structures forming a tubular structure that encircles the articles (see Figure 2). Beams **S1 & S2** are located in the recesses and are hingedly connected to base wall panel **12**.

Claim 2: Chaussadas discloses second sidewall **14** with the other ends of beams **S1 & S2** hingedly connected to second sidewall **14**.

Claim 3: Chaussadas discloses beams **S1 & S2** connected to second sidewall **14** at an elevation intermediate top wall **16** and base wall **12 & 20** (see Figure 3).

Claims 7 and 15: Chaussadas discloses beams **S1 & S2** comprising a medial panel **S1** or **S2**, and a pair of support panels **30 & 46** or **38 & 48** abutting at least a part of the walls of the articles **C1-C6**.

Claims 8 and 9: In Figures 4-6, Chaussadas anticipates a base wall **72**, adjacent wall **70**, and beam structure **96** comprising a bracket panel (portion broken from panel **72**) and support panels (portion between lines **80** and **80a** and portion broken from panel **70** connected along common longitudinal line **80**). The bracket panel (portion broken from panel **72**) is triangular in shape.

Claims 10 and 11: Chaussadas discloses bracket panel (portion widening away from line **22a**), which is trapezoidal (see Figure 3).

Claims 12 and 13: support panels **30, 38, 46, and 48** all appear to have a fold line in an intermediate portion of the panels with the portions being folded out of alignment with one another (see Figure 3). As such, the panels can be viewed as having two portions, with one portion being considered a support panel and the other portion being considered a gusset.

Claims 18, 22, 23 and 25: Chaussadas discloses a blank **10** with a plurality of wall panels hingedly connected in series (see Figure 1) and comprising a pair of base wall panels **12 & 20** at opposite ends of blank **10** with base wall **12** connected to

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adjacent wall panel **14** through a beam forming portion **S2** that includes a trapezoidal bracket panel (portion between lines **38a**, **48a**, and **22**), medial panel (portion between lines **22** and **22a**), and a pair of support panels **38 & 48**. Support panels **38 & 48** have a fold line in an intermediate portion of the panels. As such, the panels can be viewed as having two portions, with one portion being considered a support panel and the other portion being considered a gusset.

Claim 19: Chaussadas discloses beam-forming portion **S2** connected to adjacent wall panel **14** along first fold line **22a**.

Claim 20: Chaussadas discloses first sidewall panel **18** connected to other base wall panel **20** along second fold line **28a**; top wall panel **16** hingedly connected to first sidewall panel **18** along third fold line **26**; and second/adjacent sidewall panel **14** connected to top wall panel **16** along fourth fold line **24**. The distances between fold lines being arranged as claimed.

Claim 24: In Figures 4-6, Chaussadas anticipates a base wall **72**, adjacent wall **70**, and beam structure **96** comprising a bracket panel (portion broken from panel **72**) and support panels (portion between lines **80** and **80a** and portion broken from panel **70**). The bracket panel (portion broken from panel **72**) is triangular in shape.

Claim 26: Chaussadas, as applied to claim 18 above, inherently discloses the claimed method upon assembly into the arrangement of Figure 2.

Claims 27 and 32: Chaussadas discloses a wrap-around carton **10** arranged as claimed (see Figure 2). Carton **10** comprises overlapping base wall panels **12 & 20**; with one base wall panel **12** connected to adjacent/second sidewall panel **14** through

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beam structure **S2**, which includes trapezoidal bracket panel (portion between lines **38a**, **48a**, and **22**) hingedly connected to the one base panel **12** and a pair of support panels **38 & 48**.

Claim 28: Chaussadas discloses beam structure **S2** hingedly connected to adjacent/second sidewall by first fold line **22a**.

Claim 29: Chaussadas discloses first sidewall **18** hingedly connected to other base wall **20**; top wall **16** hingedly connected to first sidewall **18** and disposed above the base walls **12 & 20** as claimed (see Figures 2 and 3). The distance between the first fold line **22a** and top wall **16** is less than the distance between base walls **12 & 20** and top wall **16** (see Figure 3).

Claim 31: Chaussadas discloses beam portion **S2** with medial portion (portion between lines **22** and **22a**).

Claim 33: In Figures 4-6, Chaussadas anticipates a base wall **72**, adjacent wall **70**, and beam structure **96** comprising a bracket panel (portion broken from panel **72**) and support panels (portion between lines **80** and **80a** and portion broken from panel **70**). The bracket panel (portion broken from panel **72**) is triangular in shape.

Claim 34: support panels **38** and **48** appear to have a fold line in an intermediate portion of the panels. As such, the panels can be viewed as having two portions, with one portion being considered a support panel and the other portion being considered a gusset.

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4. Claims 1, 4-6, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Foster (US 2,817,473).

Claim 1: Foster discloses a package **11** with a plurality of articles **C** arranged with a recess therebetween, the carton comprising a top wall **18**, sidewall **14**, a base wall **16**, and beam structure **22 & 28** within the recess and hingedly connected at one end thereof to base wall **16** by means of flap **28** and hinge **58**.

Claims 4-6: Foster discloses the other end of beam member **22** hingedly connected to top wall **18** by means of hinge **26** and comprising a pair of support panels **22 & 28** hingedly connected along common longitudinal edge **58** in what appears to be an acute angle.

Claim 14: Foster discloses article **C** located in the window defined by lines **30 & 32** and abutting panels **28** and **22** at least in part.

5. Claims 18, 21, 27, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Marie (US 6,568,585).

Claims 18 and 21: Marie discloses a blank **10** with a plurality of wall panels hingedly connected in series and comprising sidewall **14** and a pair of base wall panels **12 & 20** at opposite ends of blank **10**, wherein one base wall panel **20** is connected to adjacent/top wall panel **16** through a beam forming portion **18, 31, & 43** that includes a bracket panel **18** and a pair of support panels **31 & 43** connected to the bracket panel (contacting abutment when flat) and extending to adjacent/top wall **16**.



Claims 27 and 30: Marie discloses a wrap-around carton **10** with a plurality of wall panels hingedly connected in series to form a tubular structure and comprising sidewall **14** and a pair of overlapping base wall panels **12 & 20**, with one base wall panel **20** connected to adjacent/top wall panel **16** by beam structure **18, 31, & 43**, which includes bracket panel **18** and a pair of support panels **31 & 43** connected to the bracket panel (point connection at the intersection of lines **40** and **52** with line **26**) and extending to adjacent/top panel **16**.

### ***Conclusion***


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Greg Pickett  
Examiner  
17 November 2005

  
Mickey Yu  
Supervisory Patent Examiner  
Group 3700